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6 IN THE UNITED STATES DISTRICT COURT
7 FOR THE EASTERN DISTRICT OF CALIFORNIA
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9 MICHAEL HUFTILE,)
10 Plaintiff,) 02:05-cv-00171-GEB-KJM
11 v.) ORDER
12)
13 COUNTY OF SACRAMENTO; SHERIFF)
14 LOU BLANAS,)
Defendants.)
_____)

15 Defendants move for reconsideration of the Magistrate
16 Judge's Order filed January 13, 2009, which denied Defendants'
17 request for leave to re-file their motion for summary judgment.
18 The motion was timely filed on December 19, 2008 under the
19 Scheduling Order. However, Defendants' mistakenly noticed the
20 motion for hearing before the District Judge rather than the
21 Magistrate Judge, and apparently did not know how to correct that
22 mistake. Instead, Defendants filed unnecessary motions before the
23 Magistrate Judge, which were denied, and now Defendants seek
24 reconsideration of one of these denials.

25 Defendants' reconsideration motion is a product of the
26 course of litigation Defendants pursued that needlessly convolutes
27 the proceeding on Defendants' summary judgment motion. This
28 litigation could have been avoided had Defendants been attentive to

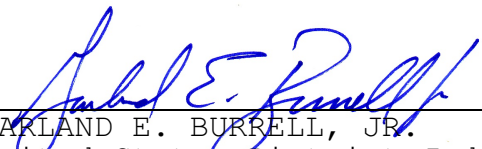
1 the applicable language in Local Rule 78-230(b); that language
2 obligates the clerk to notify a party of a defectively noticed
3 motion, and "of the next available dates and times for proper
4 notice..." It is incumbent upon a federal practitioner to become
5 familiar with rules applicable to practice in this court.

6 The applicable Scheduling Order only prescribed the date
7 by which a motion was to be filed; it did not set a hearing
8 deadline for a timely filed motion. Therefore, the last hearing
9 date for Defendants to notice the summary judgment motion filed on
10 December 19, 2008 before Magistrate Judge Kimberly J. Mueller, is
11 April 29, 2009, at 10:00 a.m.

12 Scheduling this hearing necessitates vacating the Final
13 Pretrial Conference and Trial dates; accordingly, those dates are
14 vacated. The Magistrate Judge will decide whether those dates are
15 rescheduled.

16 IT IS SO ORDERED.

17 Dated: March 12, 2009

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GARLAND E. BURRELL, JR.
United States District Judge
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